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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Clark R. Baker, Jr. et al.

Serial No.: 10/806,647

Filed: March 22, 2004

For: PULSE OXIMETER WITH  
PARALLEL SATURATION  
CALCULATION MODULES

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Group Art Unit: 3768

Examiner: Berhanu, Etsub D.

Atty. Docket: TYHC:0110-5/FLE  
009103-009632

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

CERTIFICATE OF MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Mail Stop Amendment, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:	
December 12, 2006	<i>Marcie Alsbury</i>
Date	Marcie Alsbury

Sir:

**INFORMATION DISCLOSURE STATEMENT  
PURSUANT TO 37 C.F.R. §§ 1.97(c) AND 1.98**

In compliance with the duty of disclosure under 37 C.F.R. § 1.56(a), it is respectfully requested that this Information Disclosure Statement be entered and that the listed references be considered by the Examiner and made of record. Applicants note that, due to recent amendments to 37 C.F.R. § 1.98(a), copies of the listed domestic references are no longer required to be submitted to the Examiner.

In accordance with 37 C.F.R. § 1.97, this Information Disclosure Statement is not to be construed as a representation that a search has been made, as an admission that the information cited herein is, or is considered to be, material to patentability as defined in 37 C.F.R. § 1.56(b), or as a representation that no other possibly material information, as defined in 37 C.F.R. § 1.56(b), exists.

Furthermore, the references listed on the attached PTO/SB/08 Forms are not to be construed as an admission that these references qualify as prior art as to the above-referenced application or any related application. Rather, these references are being presented for the Examiner's consideration without prejudice to the right to demonstrate that any of these references do not qualify as prior art should the Examiner choose to apply any of these references.

The following information is listed on the attached PTO/SB/08 Forms in accordance with 37 C.F.R. §1.98. Any explanation of non-English language documents contained in this Information Disclosure Statement is believed to constitute a concise explanation of the relevance of the listed reference as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the listed reference, in accordance with 37 C.F.R. § 1.98(a)(3).

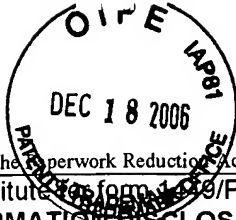
In accordance with 37 C.F.R. §1.97(c) a fee of \$180.00 is due for the present Information Disclosure Statement. The Commissioner is authorized to charge any missing fee, and any additional fee which may be required, to the credit card listed on the attached PTO-2038. However, if the PTO-2038 is missing, if the amount listed thereon is insufficient, or if the amount is unable to be charged to the credit card for any other reason, the Commissioner is authorized to charge Deposit Account No. 06-1315; Order No. TYHC:0110-5 FLE/POW (009103-009632).

Respectfully submitted,

Date: December 12, 2006



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Substitute Form 1-009/PTO  
**INFORMATION DISCLOSURE  
 STATEMENT BY APPLICANT**

**Complete if Known**

Application Number	10/806,647
Filing Date	March 22, 2004
First Named Inventor	Clark R. Baker, Jr.
Art Unit	3768
Examiner Name	Etsub D. Berhanu
Attorney Docket Number	TYHC:0110-5 / 009103-009632

Sheet 1 of 6

**U.S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
	A1	US- 3,647,299	03-07-1972	Lavallee	
	A2	US- 3,704,706	12-05-1972	Herczfeld et al.	
	A3	US- 4,063,551	12-20-1977	Sweeney	
	A4	US- 4,086,915	05-02-1978	Kofsky et al.	
	A5	US- 4,095,117	06-13-1978	Nagy	
	A6	US- 4,266,554	05-12-1981	Hamaguri	
	A7	US- 4,407,290	10-04-1983	Wilber	
	A8	US- 4,537,200	08-27-1985	Widrow	
	A9	US- 4,549,551	10-29-1985	Dyck et al.	
	A10	US- 4,621,643	11-11-1986	New, Jr. et al.	
	A11	US- 4,649,505	03-10-1987	Zinser, Jr. et al.	
	A12	US- 4,700,708	10-20-1987	New, Jr. et al.	
	A13	US- 4,705,049	11-10-1987	John	
	A14	US- 4,723,294	02-02-1988	Taguchi	
	A15	US- 4,763,282	08-09-1988	Rosenberg	
	A16	US- 4,770,179	09-13-1988	New, Jr., et al.	
	A17	US- 4,773,422	09-27-1988	Isaacson et al.	
	A18	US- 4,799,493	01-24-1989	DuFault	
	A19	US- 4,800,495	01-24-1989	Smith	
	A20	US- 4,802,486	02-07-1989	Goodman et al.	

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				
	B1	DE 3328862 A1	02-28-1985			
	B2	EP 0341 327 A1	11-15-1988			
	B3	GB 2 166 326	04-30-1986			
	B4	GB 2 235 288	02-27-1991			
	B5	SU 1674798 A1	09-07-1991			
	B6	WO 92/15955	09/17/1992			

Examiner Signature	Date Considered
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Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT				<b>Complete if Known</b>		
				Application Number	10/806,647	
				Filing Date	March 22, 2004	
				First Named Inventor	Clark R. Baker, Jr.	
				Art Unit	3768	
				Examiner Name	Etsub D. Berhanu	
Sheet	2	of	6	Attorney Docket Number		TYHC:0110-5 / 009103-009632

## U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Document Number		Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
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	A21	US-	4,819,752	04-11-1989	Zelin	
	A22	US-	4,934,372	06-19-1990	Corenman et al.	
	A23	US-	4,824,242	04-25-1989	Frick et al.	
	A24	US-	4,848,901	07-18-1989	Hood, Jr.	
	A25	US-	4,860,759	08-29-1989	Kahn et al.	
	A26	US-	4,863,265	09-05-1989	Flower et al.	
	A27	US-	4,867,571	09-19-1989	Frick et al.	
	A28	US-	4,869,253	09-26-1989	Craig, Jr. et al.	
	A29	US-	4,869,254	09-26-1989	Stone et al.	
	A30	US-	4,883,353	11-28-1989	Hausman et al.	
	A31	US-	4,892,101	01-09-1990	Cheung et al.	
	A32	US-	4,907,594	03-13-1990	Muz	
	A33	US-	4,911,167	03-27-1990	Corenman et al.	
	A34	US-	4,927,264	05-11-1990	Shiga et al.	
	A35	US-	4,928,692	05-29-1990	Goodman et al.	
	A36	US-	4,948,248	08-14-1990	Lehman	
	A37	US-	4,949,710	08-21-1990	Dorsett et al.	
	A38	US-	4,955,379	09-11-1990	Hall	
	A39	US-	4,956,867	09-11-1990	Zurek et al.	
	A40	US-	4,958,638	09-25-1990	Sharpe et al.	

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	B12					

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				Filing Date	March 22, 2004	
				First Named Inventor	Clark R. Baker, Jr.	
				Art Unit	3768	
Examiner Name				Etsub D. Berhanu		
Sheet	3	of	6	Attorney Docket Number		TYHC:0110-5 / 009103-009632

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	A41	US-	4,960,126	10-02-1990	Conlon et al.	
	A42	US-	5,025,791	06-25-1991	Niwa	
	A43	US-	5,054,495	10-08-1991	Uemura et al.	
	A44	US-	5,057,695	10-15-1991	Hirao et al.	
	A45	US-	5,058,588	10-22-1991	Kaestle	
	A46	US-	5,482,036	01-07-1992	Diab et al.	
	A47	US-	5,078,136	01-07-1992	Stone et al.	
	A48	US-	5,246,002	09-21-1993	Prosser	
	A49	US-	5,267,562	12-07-1993	Ukawa et al.	
	A50	US-	5,273,036	12-28-1993	Kronberg et al.	
	A51	US-	5,348,004	09-20-1994	Hollub	
	A52	US-	5,351,685	10-04-1994	Potratz	
	A53	US-	5,431,170	07-11-1995	Mathews	
	A54	US-	5,458,128	10-17-1995	Polanyi et al.	
	A55	US-	5,467,778	11-21-1995	Catt et al.	
	A56	US-	Re. 35,122	12-19-1995	Corenman et al.	
	A57	US-	5,479,922	01-02-1996	Reichl	
	A58	US-	5,482,036	01-09-1996	Diab et al.	
	A59	US-	5,485,847	01-23-1996	Baker Jr.	
	A60	US-	5,490,505	02-13-1996	Diab et al.	

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Sheet	4	of	6	Attorney Docket Number		TYHC:0110-5 / 009103-009632

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		Number-Kind Code <sup>2</sup> (if known)				
	A61	US-	5,494,032	02-27-1996	Robinson et al.	
	A62	US-	5,511,042	04-23-1996	O'Brien Jr.	
	A63	US-	5,524,631 A	06-11-1996	Zahorian et al.	
	A64	US-	5,553,615	09-10-1996	Carim et al.	
	A65	US-	5,632,272 A	05-27-1997	Diab et al.	
	A66	US-	5,685,299	11-11-1997	Diab et al.	
	A67	US-	5,769,785	06-23-1998	Diab et al.	
	A68	US-	5,758,644	06-02-1998	Diab et al.	
	A69	US-	5,769,785 A	06-23-1998	Diab et al.	
	A70	US-	5,853,364 A	12-29-1998	Baker, Jr. et al.	
	A71	US-	6,157,850 A	12-05-2000	Diab et al.	
	A72	US-	6,430,525 B1	08-06-2002	Weber et al.	
	A73	US-	6,836,679 B2	12-28-2004	Baker Jr., et al.	
	A74	US-				
	A75	US-				
	A76	US-				
	A77	US-				
	A78	US-				
	A79	US-				

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<b>Sheet</b>	5	of	6	<b>Attorney Docket Number</b>	TYHC:0110-5 / 009103-009632

### NON PATENT LITERATURE DOCUMENTS

Examiner Initials	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
	C1	Mook et al., "Wavelength dependency of the spectrophotometric determination of blood oxygen saturation," <i>Clinical Chemistry Acta</i> , 26:170-173 (1969).	
	C2	Rabiner et al., "Theory and Application of Digital Signal Processing," p. 260 (1975).	
	C3	Mook et al., "Spectrophotometric Determination of Oxygen Saturation of Blood Independent of the Presence of Indocyanine Green", <i>Cardiovascular Research</i> , 13:233-237 (1979).	
	C4	Nehorai, A., "A Minimal Parameter Adaptive Notch Filter With Constrained Poles and Zeros," <i>IEEE Transactions on Acoustics Speech, and Signal Processing</i> , ASSP-33(4):9083-996 (1985).	
	C5	Nehorai, A., et al., "Adaptive Comb Filtering for Harmonic Signal Enhancement," <i>IEEE Transactions on Acoustics, Speech, and Signal Processing</i> , ASSP-14 (5):1124-1138 (1986).	
	C6	Gilbert Strang, <i>Introduction to Applied Mathematics</i> , Wellesley Cambridge Press, Wellesley, Mass. (1986), pp. 148-152.	
	C7	Brown, "Evaluation of Pulse Oximeters Using Theoretical Models and Experimental Studies," Cover page-p. 2 (1987).	
	C8	Neuman, "Pulse Oximetry: Physical Principles, Technical Realization and Present Limitations," <i>Continuous Transcutaneous Monitoring</i> , pp. 135-144 (1987)	
	C9	Jinzheng et al., "Digital Processing of High-Resolution Electrocardiograms-Detection of His-Purkinje Activity from the Body Surface," <i>Biomed. Technik</i> , 33(10):224-230 (1988).	
	C10	Chen et al., "Adaptive System for Processing of Electrogastric Signals," <i>IEEE Engineering in Medicine &amp; Biology Society</i> , 11 <sup>th</sup> Annual International Conference, pp. 698-699 (1989).	
	C11	Klimasauskas, "Neural Nets and Noise Filtering," <i>Dr. Dobb's Journal</i> , 14(1):32-48 (1989).	
	C12	Severinghaus, "Pulse Oximetry Uses and Limitations," ASA Convention in New Orleans, LA (1989).	
	C13	Harris et al., "Digital Signal processing with Efficient Polyphase Recursive All-Pass Filters," <i>International Conf. on Signal Processing</i> , Florence, Italy (1991)	
	C14	Varanini et al., "A Two-Channel Adaptive Filtering Approach for Recognition of the QRS Morphology," <i>COMPUTERS IN CARDIOLOGY</i> , pp. 141-144 (1991).	
	C15	Robert Grover Brown and Patrick Y.C. Hwang, <i>Introduction to Random Signals and Applied Kalman Filtering</i> (2 <sup>nd</sup> Ed.), John Wiley & Sons, Inc., New York (1992), pp. 231-232, 261.	
	C16	Hendry, S.D., "Computation of Harmonic Comb Filter Weights," <i>IEEE Transactions on Signal Processing</i> , 41(4): 1677-1680 (1993)	
	C17	Testimony of Mohammed Diab, Testimony of Jack Goldberg, Reporter's Transcript of Proceedings, Morning Session, Feb. 24, 2004, pp. 626-710, US District Court, central District of California, No. CV 00 6506-MRP, Los Angeles, California	

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Sheet	6	of	6	Attorney Docket Number	TYHC:0110-5 / 009103-009632

### NON PATENT LITERATURE DOCUMENTS

Examiner Initials	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
	C18	Testimony of Jack Goldberg, Reporter's Transcript of Proceedings, Afternoon session, Feb. 24, 2004, pp. 711-806, US District Court, Central District of California, No. CV 00 6506-MRP, Los Angeles, California	
	C19	Testimony of Jack Goldberg, Reporter's Transcript of Proceedings, Morning session, Feb. 25, 2004, pp. 807-826, US District Court, Central District of California, No. CV 00 6506-MRP, Los Angeles, California	
	C20	Testimony of James Edward, Corenman, Testimony of Clark Raymond Baker, Jr., Testimony of Robert Thomas Stone, Reporter's Transcript of Proceedings, Afternoon session, March 3, 2004, pp. 1696-1795, US District Court, Central District of California, No. CV 00 6506-MRP, Los Angeles, California	
	C21	Testimony of Robert Thomas Stone, Reporter's Transcript of Proceedings, Morning session, March 4, 2004, pp. 1796-1884, US District Court, Central District of California, No. CV 00 6506-MRP, Los Angeles, California	
	C22	<i>Mallinckrodt Inc. and Nellcor Puritan Bennett, Inc. v. Masimo Corp. and Ivy Biomedical Systems, Inc.</i> , Memorandum of Decision and order Re Power-Trial Motions entered July 14, 2004.	
	C23	<i>Mallinckrodt Inc. and Nellcor Puritan Bennett, Inc. v. Masimo Corp. and Ivy Biomedical Systems, Inc.</i> , Final Judgment entered August 6, 2004.	
	C24	FastSat™ Whitepaper by Masimo Corporation (2 pages) - undated	
	C25	Cohen, <i>Biomedical Signal Processing</i> , Vol. 1, pp. 152-158.	
	C26	Joint Exhibits: JTX-5009, JTX-5010, JTX-5013, JTX-5014, TJX-5015, JTX-5017, JTX-5021, US District Court, Central District of California, No. CV 00 6506-MRP, Los Angeles, California	
	C27	Wahr, Joyce A., et al., "Pulse Oximetry," <i>Respiratory Care Clinics of North America, Blood Gas Measurements</i> , 1:1 (September 1995), pp. 77-105.	
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